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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

In re R.C. et al., Persons Coming Under the Juvenile
Court Law.

C087648

PLACER COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

(Super. Ct. Nos. 53-004758,
53-004759)

Plaintiff and Respondent,

v.

A.C.,

Defendant and Appellant.

Mother of the minors, R.S. and R.S.C., appeals from the juvenile court's order asserting jurisdiction over the minors and removing them from mother's custody. (Welf. & Inst. Code, §§ 300, subds. (b) & (c), 361, subd. (c)(1).)¹ Mother contends there was

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

insufficient evidence to support the court's jurisdictional findings and the court's finding of substantial danger to the health, safety, or protection of the minors if returned to her custody. We will affirm the juvenile court's orders.

FACTUAL AND PROCEDURAL BACKGROUND

On November 30, 2017, the Placer County Department of Health and Human Services (Department) learned that mother was driving R.S. (12 years old) and R.S.C. (14 years old) while intoxicated. She was becoming increasingly aggressive and paranoid. Two weeks prior, mother called the maternal grandfather and said, "Come get these fucking kids, I am done with them!" When the maternal grandfather arrived at mother's home to pick up the minors, mother was paranoid, combative, and aggressive. She told the maternal grandfather to "take the fucking kids, I don't want them." Mother said she believed people were trying to sell her for sex and drugs and siphoning gas out of her car. The maternal grandfather reported that mother regularly used him to care for the minors when she was suffering from drug-induced or mental health paranoia. Mother was identified with mental health issues but denied using drugs or alcohol. She had no interest in getting help for either her mental health issues or her drug dependency. The minors stated they wanted to be with mother but only if she was willing to "get the help she needs."

On December 28, 2017, social worker Loretta Parker spoke with the minors at the maternal grandfather's home. R.S.C. had a flat affect and slouched in her chair during the interview. R.S. appeared anxious and was nervously picking his fingers. Both minors stated mother worked a lot and complained about her back, talked about one subject over and over, and became angry when she was interrupted. R.S.C. said she had not seen her father in about four years and did not know where he lived. R.S. said he and R.S.C. were "a team" and helped each other. Parker also spoke with the maternal grandfather, who reported that, on November 25, 2017, mother came to his home and stated people were living under her house and raping her so she was sleeping in her car.

The following day, the maternal grandfather called 911 to report that mother called him and threatened to take the minors and kill herself.

On December 29, 2017, Parker made an unannounced visit to mother's house. Mother made minimal eye contact and was "in a state of active psychosis." Mother told Parker she could hear people talking and running around on the roof and in the basement. She reported that, on one occasion, one of the "people" took her purse and replaced her medications with probiotics. She thought the neighbors were out to get her and were talking about her, and she said her "ex" was selling sex tapes of her and there were cameras in her house watching her. Mother also said she believed her uncle was watching her "through the internet." Parker noted that, throughout the interview, mother had persecutory beliefs, paranoid thinking, and delusional thoughts.

On January 12, 2018, a child and family team (CFT) meeting was held, during which mother continued to display paranoid thinking that people were living under her house and stealing her art and business ideas. She said there were ladies posed as trees in front of her house "just to fuck with me." She explained that she had to quit her job at Ulta because customers told her they had seen her personal things in her house and told her to clean up her bathroom. Eventually, mother reluctantly agreed to allow the minors to live with the maternal grandfather. However, mother called the maternal grandfather several times after the CFT meeting and threatened to take the kids, telling the maternal grandfather she did not trust him.

On January 15, 2018, mother called 911 from a hotel to report she had jumped out of a window in her home to escape the fumes from poisonous gas being pumped through the floor by people living underneath her house. Mother was not wearing shoes or socks or suitable clothing for the 48-degree weather and had reportedly walked one mile in the cold. She stated she first went to the hotel but then walked to a gas station to get help. Sheriff's Deputy Spurgeon determined mother was "gravely disabled." When mother refused to speak with a doctor or a mental health specialist, she was placed on a section

5150 hold and transported to the hospital. Mother notified the maternal grandfather she was at a psychiatric hospital in Roseville. However, by the time he arrived at the hospital, mother had already signed herself out.

Parker met with mother again on January 23, 2018. She displayed delusional and paranoid thinking, telling Parker the police took her to the hospital after she called them and told them people were hacking her phone and computer and were under her house. When Parker asked mother whether she had taken a drug test, mother stated her drug test was clean but avoided providing Parker with documentation. She told Parker two men had come into her hospital room and given her a shot in each leg. At the end of the meeting, mother told Parker she felt overwhelmed by being a single mom for so many years and she needed a break. She did not, however, acknowledge her mental illness.

Mother had an appointment to meet with Parker on February 2, 2018, to discuss the progress of mother's mental health services. However, mother cancelled the appointment because of some "stuff" and asked to reschedule for the following week. The Department attempted to provide mother with mental health services, but mother would not show up for scheduled family or individual counseling sessions. The Department recommended that the minors be detained and removed from mother's custody.

On February 1, 2018, the Department filed a juvenile dependency petition pursuant to section 300, subdivisions (b), (c), and (g). The petition alleged the minors suffered, or were at substantial risk of suffering, serious physical harm or illness as a result of mother's inability to provide regular care for the minors due to her mental illness and substance abuse issues. (§ 300, subd. (b)(1).) It was further alleged that the minors were suffering, or were at substantial risk of suffering, serious emotional harm due to mother's untreated mental illness, as evidenced by R.S.'s development of a stress-related

skin rash and R.S.C.'s depression and isolation. (§ 300, subd. (c).)² A protective custody warrant was subsequently issued for the minors.

Mother submitted on the issue of detention at the February 7, 2018 detention hearing, noting she was very remorseful and took full responsibility. She stated she would cooperate in any way and was willing to get involved in services, including drug testing, right away. Mother also agreed to placement of the minors with the maternal grandfather. The court ordered the minors' continued detention with the maternal grandfather with twice weekly visitation for mother. The court subsequently appointed a guardian ad litem for mother.

On March 20, 2018, the Department filed an amended dependency petition alleging mother's inability to provide regular care for the minors due to mother's mental illness, developmental disability, or substance abuse issues, placing the minors at risk of serious physical harm. (§ 300, subd. (b)(1).) The amended petition struck the allegations under section 300, subdivision (c) that R.S. suffered a skin rash due to stress and R.S.C. suffered depression. The subdivision (g) allegation was also stricken in its entirety.

According to the March 2018 jurisdiction/disposition report, mother claimed she was no longer using Oxycodone and was now taking Percocet. She admitted that, on occasion, she took more pain medication than prescribed and occasionally used alcohol as "a pain killer" to "self-medicate." Mother claimed she was no longer drinking alcohol but acknowledged her use of alcohol or prescription medication "occasionally" impacted her ability to care for the minors. She claimed she was trying not to drink alcohol but said, "All this has put me on edge so I want to drink" and "I don't want to go through all

² The petition also included a section 300, subdivision (g) allegation related to the minors' father which is not relevant to the issues on appeal and will not be discussed herein.

this bullshit without alcohol.” Mother denied having used alcohol the day of the interview but said she “could go for a glass of wine though.” Mother acknowledged she had a history of methamphetamine use but claimed she had not used in the past 10 years. She stated she used marijuana approximately one week prior to the interview and would use it more if she “could afford it,” and said marijuana helped her focus, deal with pain management, and kept her “mind distracted” from her constant pain.

The report stated mother was diagnosed with Lupus and experienced chronic pain for which she was prescribed Oxycodone. On at least one occasion, mother used her 30-day prescription in two weeks and then used alcohol or Oxycodone provided by her neighbor. On several occasions, the maternal grandfather smelled alcohol on mother’s breath and observed her to be slurring her words. He picked up the minors on several occasions when mother was drinking. It was further reported that mother was putting alcohol in her coffee mug and driving the minors while intoxicated. The report stated mother had been drinking more alcohol in the past six months and had tested positive for THC on February 13 and February 26, 2018.

The report discussed mother’s denial of her schizophrenia diagnosis and having made statements about being watched by the neighbor, someone sneaking into her bedroom and cutting her hair, hearing voices from under her porch, finding things on her patio, and hearing people walking on the roof. R.S. stated mother “is not doing well and is not able to take care of us right now” and “it’s really bad.” R.S. was protective of mother and feared she would find out he was talking to Department staff about her. The maternal grandfather stated mother displayed “delusional tendencies” which were “amped up” after he moved out of her home. He confirmed mother had “wild delusions” about people living under the deck and breaking in and raping her, and that she yelled at the minors and eventually called the maternal grandfather to “get these fucking kids out of the house” and “[d]on’t bring them back. This house is evil.”

The jurisdiction/disposition report noted mother's admission that the problems she was experiencing "freaked the [minors] out." R.S. stated mother's paranoia about people coming into the house and living under the house made him "scared," and R.S.C. stated she felt "nervous" and "sad" for mother because mother stayed up late and occasionally slept in the car. R.S.C. denied feeling depressed but acknowledged she often isolated herself in her room to avoid arguments between mother and R.S. According to the maternal grandfather, the minors were not concerned for their own personal safety but were "scared and worried" about mother.

At the jurisdiction/disposition hearing on April 11, 2018, mother requested that she be permitted to represent herself claiming her attorney was lying and stating she did not want a guardian ad litem. Expressing its concern about mother's mental health and whether mother was able to participate in her case, the court denied mother's request and set the matter for a contested hearing.

The contested jurisdiction hearing commenced on May 11, 2018. Mother read her prepared statement, which included her statement that Child Protective Services (CPS) "misinforms and acts as a genocide program to single mothers and fathers." Mother highlighted the efforts she had taken to support the minors, including taking them to school, providing guidance and leadership, maintaining employment, removing alcohol "completely out of my life," and keeping herself busy with healthy activities. Mother stated she was working on her art skills, noting, "I was taken by a few bad characters, and my art was stolen from me. I was targeted online by people who stole it and, for all I know, made profit on it." She stated she would never relinquish her parental rights and would keep attending counseling and drug testing. She also stated, "If I am fed lies, I might lie. If CPS breaks laws, I might break them too." Mother stated she did not want the minors to remain in the care of the maternal grandfather, claiming he was manipulative. She added, "I feel saddened to know that I was raised by him" and "I often

wonder what his real intentions are and question his mental state as well.” She stated she preferred that the minors be placed with her or the maternal grandmother.

The Department and minors’ counsel submitted on the reports. Minors’ counsel informed the court that the minors did not want to live with the maternal grandmother and, until they were able to return to mother’s custody, they wished to continue living with the maternal grandfather.

The court sustained the subdivision (b) and (c) allegations in the amended petition and found the minors dependents of the juvenile court, noting “the evidence is pretty substantial in this case and certainly has been proven by a preponderance of the evidence and beyond.”

At the contested disposition hearing on May 29, 2018, mother’s counsel noted mother’s concerns regarding placement of the minors with the maternal grandfather. Mother was sworn and gave a statement. She first claimed she was not receiving “straight answers” from her attorney and the social workers regarding the basis for the court’s exercise of jurisdiction. She stated that part of the evidence was based on her hospitalization and claimed she was sober when she went into the hospital but was drugged there without her knowledge. Mother also claimed information she provided to her attorney and the social worker had not been submitted to the court, noting she had made several complaints about the process “to the federal government.” Mother claimed her rights had been violated and stated she wanted the minors back. Mother also complained at length that she was not being heard, and requested that the court consider new documents not previously provided.

The court found by clear and convincing evidence that return of the minors to mother was contrary to the minors’ well-being and continued placement with the maternal grandfather was necessary and appropriate. The court agreed to consider mother’s documentation to determine if a change in its disposition order was necessary.

On June 22, 2018, mother filed a petition to change the court's order pursuant to section 388, requesting that the court return the minors to her custody and dismiss the dependency case. Mother argued there was a change of circumstances based on "medical evidence of malpractice," mother's sobriety and her being "within standards of court," misrepresentations by her attorney "not making judgments clear," and evidence supporting "harassment corresponding to mental health."

On June 28, 2018, mother filed a notice of appeal of the juvenile court's May 11, 2018 jurisdiction order and its May 29, 2018 disposition order.

On July 18, 2018, the court denied mother's section 388 petition, finding no evidence to warrant an evidentiary hearing.

DISCUSSION

I

Sufficient Evidence to Support Jurisdictional Findings

Mother contends the juvenile court's jurisdictional findings were not supported by substantial evidence. She contends there was insufficient evidence that her substance abuse or her mental health issues (§ 300, subd. (b)) established a substantial risk of serious physical harm to the minors. She further contends there was insufficient evidence to establish the minors were suffering serious emotional harm, or there was a substantial risk they would suffer serious emotional harm, due to her conduct (§ 300, subd. (c)). The claims lack merit.

"[B]efore courts may exercise jurisdiction under section 300, subdivision (b) there must be evidence 'indicating the [minor] is exposed to a substantial risk of serious physical harm or illness.' " (*In re Janet T.* (2001) 93 Cal.App.4th 377, 388, quoting *In re Rocco M.* (1991) 1 Cal.App.4th 814, 823.) That is, section 300, subdivision (b)(1) requires evidence of three elements: "(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) 'serious physical harm or illness' to the minor, or a 'substantial risk' of such harm or illness." (*Rocco M.*, at p. 820, disapproved on other

grounds in *In re R.T.* (2017) 3 Cal.5th 622, 624, 629 [*first clause of section 300, subdivision (b)(1)* “authorizes dependency jurisdiction without a finding that a parent is at fault or blameworthy for her failure or inability to supervise or protect her child”].)

“The purpose of section 300 is to protect children from parental acts or omissions that place them at a substantial risk of suffering serious physical harm or illness. (§§ 300, subd. (b), 300.2.) Although there must be a present risk of harm to the minor, the juvenile court may consider past events to determine whether the child is presently in need of juvenile court protection. (*In re Petra B.* (1989) 216 Cal.App.3d 1163, 1169.) The California Supreme Court has observed that, depending upon the circumstances, a ‘past failure [can be] predictive of the future.’ (*In re Jasmon O.* (1994) 8 Cal.4th 398, 424.)” (*In re A.F.* (2016) 3 Cal.App.5th 283, 289.)

We review a juvenile court’s jurisdictional and dispositional findings for substantial evidence. (*In re D.C.* (2015) 243 Cal.App.4th 41, 51.) “Issues of fact and credibility are questions for the trial court and not the reviewing court. The power of the appellate court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted, which will support the conclusion reached by the trier of fact.” (*In re Christina T.* (1986) 184 Cal.App.3d 630, 639.)

Here, the original petition and the amended petition both alleged as part of the subdivision (b) allegations that the minors had suffered, or were at substantial risk of suffering, serious physical harm or illness due to mother’s abuse of alcohol and Oxycodone which periodically rendered her incapable of providing appropriate care and supervision to the minors, and due to mother’s mental health issues, including being suicidal and suffering from hallucinations, delusions, and paranoia; her January 2018 temporary hold at a psychiatric hospital due to being gravely disabled; and the fact that she had decompensated and told the maternal grandfather to take the minors because she was done with them. There is ample evidence to support those allegations.

Evidence Supporting the Substance Abuse Allegations (§ 300, subd. (b))

The substance abuse allegations were supported by mother's statements during a February 2018 interview, including that on occasion, she took more pain medication than prescribed and occasionally used alcohol as a pain killer to self-medicate. Mother also admitted her use of alcohol and prescription medication occasionally impacted her ability to care for the minors and stated that, although she was trying not to drink alcohol, she wanted to drink because "[a]ll this has put me on edge" and "I don't want to go through all this bullshit without alcohol." She also stated the minors "don't mind" her drinking and, when she does drink, "I get happy and cook them more food." When asked whether she had used alcohol the day of the interview, mother stated she had not but added, "I could go for a glass of wine though." Further evidence included statements by the maternal grandfather during a February 2018 interview reporting he smelled alcohol on mother's breath and heard her slur her words. He reported mother had been drinking more in the past six months and had been putting alcohol in her coffee mug and driving the minors while intoxicated. He also noted he had picked up the minors on several occasions because mother was drinking.

The substance abuse allegations were also supported by mother's admissions, just months before the jurisdictional and dispositional hearings, that she used marijuana one week prior to the interview, she would use it more if she could afford it because it helped her focus and distracted her mind from the pain, and she had, on at least one occasion, used her 30-day prescription for Oxycodone in two weeks and then used alcohol or Oxycodone given to her by her neighbor for the remainder of the month. Her marijuana use was confirmed in February 2018 when she twice tested positive for THC.

There was sufficient evidence to support the juvenile court's finding that mother's alcohol and substance abuse issues resulted in a substantial risk of harm or illness to the minors. (§ 300, subd. (b)(1).)

Evidence Supporting the Mental Health Allegations (§ 300, subd. (b))

The court's findings regarding the mental health allegations were also supported by substantial evidence. Mother's mental health issues were well-documented. In November 2017 mother told the maternal grandfather she was sleeping in her car because people were living under her house and raping her. She called the maternal grandfather and threatened to take the minors and kill herself. In December 2017 mother was reportedly "in a state of active psychosis," claiming she could hear people running around on the roof and in the basement, people were taking her things from inside the house, her "ex" was selling sex tapes of her and watching her via cameras in her house, and people were watching her through the internet. In January 2018 mother continued to express her paranoid beliefs about people living under her house and stealing from her and claimed she had to quit her job because customers told her they had seen things in her home. Although mother reluctantly agreed for the minors to live with the maternal grandfather, she thereafter proceeded to call the maternal grandfather and threaten to take the minors back because she did not trust him.

The mental health allegations were further supported by evidence that, on January 15, 2018, mother was determined to be "gravely disabled" after she jumped from a window because she believed people living underneath her house were pumping poisonous gas through the floor in an attempt to poison her. She first went to a hotel and called 911, but then left and walked one mile barefoot and wearing clothes not suitable for the 48-degree weather. When she refused to speak with a doctor or a mental health specialist, she was placed on a section 5150 hold and transported to a psychiatric hospital from which she promptly checked herself out. Despite overwhelming evidence, mother continually denied having mental health issues other than social anxiety, which she claimed was a result of the Department's involvement with her family, and had little interest in getting help for either her mental health issues or her drug dependency.

There was sufficient evidence to support the court's findings that mother's mental health issues resulted in a substantial risk of harm to the minors. (§ 300, subd. (b)(1).)

We conclude there was substantial evidence to support each of the elements for assumption of jurisdiction under section 300, subdivision (b). Having so determined, we need not consider the subdivision (c) allegations. “ ‘When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence.’ [Citation.]” (*In re D.P.* (2014) 225 Cal.App.4th 898, 902.) “In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

II

Substantial Evidence to Support Removal of Minors

Mother contends there was insufficient evidence to support the juvenile court's dispositional order removing the minors from her custody. (§ 361, subd. (c).) We disagree.

Under section 361, subdivision (c)(1), a dependent child may not be taken from the physical custody of the parents with whom the child resides at the time the petition was initiated unless the juvenile court finds by clear and convincing evidence “[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's . . . physical custody.” (§ 361, subd. (c)(1).) “A removal order is proper if it is based on proof of (1) parental inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent. [Citation.]” (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163.)

“The jurisdictional findings are prima facie evidence that the child cannot safely remain in the home. [Citation.] The parent need not be dangerous and the child need not have been actually harmed for removal to be appropriate. The focus of the statute is on averting harm to the child. [Citations.] In this regard, the court may consider the parent’s past conduct as well as present circumstances. [Citation.]” (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.)

We review the dispositional order removing a child from parental custody for substantial evidence. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1126.) The evidence is considered “in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order. [Citations.]” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.)

We conclude there was sufficient evidence in the record to support the juvenile court’s removal order. As previously discussed in part I of this opinion, there was substantial evidence demonstrating mother’s mental health issues prevented her from providing proper care and supervision to the minors, placing them at substantial risk of suffering physical and emotional harm. The record is replete with examples of mother’s mental illness, her failure to acknowledge her mental health issues, and her refusal to accept help for those issues. Mother’s history of paranoia and delusions, oftentimes exhibited while the minors were present, coupled with her failure to acknowledge her mental illness or avail herself of opportunities to address those issues, is evidence she lacked sufficient mental and emotional stability for the minors to remain in her custody.

There was also sufficient evidence of potential detriment to the minors if they were to be returned to mother’s care and custody. As previously discussed at length, mother’s mental health issues prevented her from fully caring for, supervising, and safeguarding the minors. During mother’s acute mental health incidents, mother often behaved aggressively, yelling at the minors and others around her, and calling the maternal grandfather to “take the fucking kids, I don’t want them” or “get these fucking

kids out of the house” and “[d]on’t bring them back. This house is evil.” Mother admitted her behaviors “freaked the [minors] out.” Her paranoia about people coming into the house and living under the house “scared” R.S., who recognized mother was “not doing well and is not able to take care of us right now.” R.S.C. felt “nervous” and “sad” for mother because mother stayed up late and occasionally slept in the car. R.S.C. often isolated herself in her room to avoid arguments between mother and R.S. The record makes plain that removal was the only means by which to protect the minors.

Mother asserts the court could simply have returned the minors to her and imposed conditions on their custody and care, such as strict supervision, an order for services to assist mother with identified concerns, and unannounced home visits. Under the circumstances, placement of the minors with mother under any circumstance was untenable. The record makes plain that mother failed to acknowledge the nature and extent of her mental health issues and how those issues placed the minors at risk. Instead, when asked what would need to occur before the minors could be returned to her, mother focused on her need to be more independent, move away from her house, and learn about internet safety to avoid hackers. Mother also failed to acknowledge her responsibility for the issues leading to intervention by the Department and removal of the minors, blaming the maternal grandfather, the Department, social workers, hospital staff, and her attorney. Even the minors recognized mother needed to “get space,” “get herself together,” “get past people living under our house and the cameras,” and improve her health before they could return to her care.

The juvenile court did not err in removing the minors from mother’s custody.

DISPOSITION

The juvenile court's orders are affirmed.

RAYE, P. J.

We concur:

BUTZ, J.

RENNER, J.